



MINUTES
Ad Hoc Committee
on the
City Market
Thursday, March 30, 1995
1:30 P.M.
Tenth Floor Conference Room

Call to Order:

The meeting was called to order by Chairperson Beal at approximately 1:35 p.m.

Members Present:

Councilmember Beal
Councilmember Jones

Ex Officio: **Greg Koessel, Internal Audit**
 Liza Estlund-Olson, Mayor's Special Assistant

Others Present: Carol Shull, Member of the Public
 Robert and Bonnie Bennett, Members of the Public
 Doug Rubley, Finance Department
 Pete Bosheff, Member of the Public
 Lloyd Teets, Member of the Public
 Don Grigg, Bakery
 Bob Johnson, Mayor's Office
 Sally Potter, City Market
 Jack Roberts, Law Department

PUBLIC COMMENT:

Mr. Teets spoke regarding the management of the market. Mayor Hollister has this idea that he is going to create this super authority that is going to run the Market, the Lansing Center and the Baseball Stadium, and the day that happens, the market will be history. He was concerned about the current management of the market.

CLARIFICATION FROM THE LAW DEPARTMENT:

Mr. Roberts was present representing the Law Department.

Chairperson Beal indicated that the Administration had expressed concern about the City Council stepping on their toes in regard to possible micro management of the Market. She referenced written opinion 95-07.

Mr. Roberts explained the opinion in regard to the Ad Hoc Committee process and the purview authority of the City Council. He indicated that Mr. Smiertka's opinion was clear. The general theme of the opinion is based upon the separation of administrative and legislative powers per the City Charter.

Chairperson Beal explained that the Committee will be working with the Market Manager to oversee the budget to make sure that the following procedures and contracts are being followed. The leases will also be reviewed by the Committee as the vendors are being offered monthly leases right now.

Mr. Roberts indicated that the Mayor is responsible for the management of the City properties and if the lease is under five years, then this is the Mayor's responsibility.

Councilmember Jones explained that several vendors had signed long term leases and now they are being asked to sign a short term lease. Mr. Roberts stated that he could take a look at this issue.

Mr. Johnson indicated that the issue of the month to month leases are being blown out of proportion in his opinion. The month to month framework was recommended by the City's Legal Counsel, Burt Burleson. There is not intention on the part of the City to do anything to those vendors who currently have a lease

in place that goes beyond June 30, 1995. However, when dealing with new vendors and dealing with the vendors who are already on a month to month basis will be dealt with per the recommendation of the Law Department. This arrangement will allow the City and the Vendors the maximum flexibility.

Mr. Grigg reported on the record that Ms. Potter had demanded that Mr. Grigg sign the thirty day lease.

Chairperson Beal indicated that this issue needs to be worked out with the Administration and reminded the committee of their limitations.

Mr. Roberts clarified that Mr. Smiertka has ruled that the leasing is an administrative function.

Chairperson Beal cited the last page of the opinion and asked the Attorney Roberts to elaborate on the language contained therein.

Mr. Roberts reported that the language speaks for itself and is concurrent with the division of functions of the City Council and the Administration. The Committee can make recommendations as to the setting of policy but can not make decisions as to the day to day operations.

Chairperson Beal spoke the mandates of the Charter in regard to rates. In the past the rates were set by the City Council.

The Committee establishes the recommendations for submission to the City Council as to the establishment of policy. If the Council wants to pass a resolution as to the specific policy as the hours and days of the market, the Council can make this decision. The Committee can not set policies as to the day to day operation of the market because it is under the auspices of the Administration. The budgetary decisions remain within the purview of the City Council.

Mr. Koessel provided an historical overview of the previous policy statements. He inquired as to whether these policies were still applicable today. Mr. Roberts could make a determination on this matter after receiving detailed and specific information relative to the policy statements.

General discussion ensued regarding the establishment of rates between the Committee and the Attorney Roberts.

If the Mayor or Department Head makes a recommendation in regard to the setting of rates, Council takes actions to either approve or disapproves of these recommendations.

Chairperson Beal spoke to the operations of the financial aspects of the Market and that they have not been operated appropriately and that it why the Committee was formed. She clarified that she is not looking at "getting anybody" by the process, but that the Committee was set up to assist the Administration in getting the market moving forward and that matters be done properly in the future. The City Market Budget has to be adhered to and the appropriated City policies must be followed.

Councilmember Jones explained the role of the Committee - that the Committee wants to insure that the Market is adhering to City policies with respect to finance, budget process, etc. The Council should receive some type of assurance that these policies are being followed.

Mr. Johnson reported that the Administration was going to make the appropriate adjustments per the Internal Auditor's findings. The Administration is committed to doing things right in terms of the procurement process, the purchasing ordinance and following applicable City procedures. The Administration has never wavered away from this desire to comply. The transition was not as smooth as it should have been in terms of Mr. Johnson's responsibilities and the hiring of Ms. Potter. Mr. Johnson indicated that he did not instruct Ms. Potter as to the appropriate procedures as he was not aware of them himself.

Mr. Johnson indicated that he and Ms. Potter are committed to making the market successful and having the best interests of the market "at heart."

Chairperson Beal spoke to the results of the consultant's study. The question is whether the market is completely under the control of one person or is it a collaborative effort in terms of bringing in the public, the vendors, etc.

She had always assured the vendors that they would always have input as to how the market was operated. We now have a "iron fist" type manager that the vendors just don't like and they have been told if they do not like it that can move out.

Member Olson explained that the vendors can not be forced to participate if they do not want to.

Chairperson Beal indicated that the Merchant's Association needs to be in place. The vendors need to be organized. In the past the vendors were organized but because of pressure from the Parks and Recreation Department and others, the group dissolved. The vendors organization was better organized than the corporation organization.

Mr. Johnson explained that he was very open with vendors and always recommended that they form an association to become better organized. The vendors did not want to form.

Mr. Grigg addressed the Committee and explained that the vendors can not form a committee under the direction of the Mr. Johnson or Ms. Potter. The vendors have to be free to form an association without input and interference from management. To date, the association has not been formed because they have had to deal with issue of leases.

Ms. Potter encouraged the vendors (at a meeting) of which 85% of the vendors were present at the meeting whereby they voted on the hours. She has indicated that if an association is formed the Management will meet them any time they want. She has and does continue to encourage the establishment of a vendor association. She expressed the fact that if there were so many ongoing problems at the market, where were the other vendors? They would be here if they had problems.

Chairperson Beal indicated that it is Thursday, and that several vendors have indicated to others that they are in afraid of repercussions.

Ms. Potter again asked, where are they?

Ms. Olson indicated that this was the same situation that had happened with the Parks Department which forced the issue. The vendors have continued to say that they fear repercussions.

Chairperson Beal commented that she has never seen the market situation like this and she has been involved in the market a long time. The vendors do not want to screw things up right now but they do not feel secure about expressing criticism

or raising issues. They are not going to come forward because they fear they will be forced out.

Councilmember Jones requested that the Finance Department provide appropriate information to the Committee.

Ms. Olson reported that Mr. Rubley did not receive Mr. Koessel's report until Tuesday and that the Finance Director is working on it.

INTERNAL AUDITOR'S REPORT:

Purchasing Ordinance Compliance/Competitive Bidding: The documentation was not on file in the eighth floor at the time the audit was done. It is currently not on file. The contracts were placed on file last Tuesday. He has requested copies of the contracts. Mr. Rubley and Mr. Koessel are reviewing the contracts at the present time and will provide the Committee with a report. If the purchasing ordinance was not followed, the contracts are not binding upon the City.

Professional Services: Mr. Koessel could not locate any written contract at the time of the audit. He now has three of the five he had been pursuing. The contracts most of the information. The janitorial is very specific that some of the other contracts.

Ms. Potter explained that she contact several artists and she made the decision based on their recommendations and he could meet the time line and he was cheap - \$40.00 per hour. He is a self employed contractor. The City does not pay any social security, workers compensations, etc. His is very, very, very good. She invited the Committee members to visit the market to look at his work.

Chairperson Beal expressed concern that Ms. Potter was hired as an Interim Manager and she is making decisions to hire people to put historical drawings on the wall for \$40.00 per hour.

Ms. Potter, the paintings take up about 20% of the process. Research and drawing is involved. After taxes this individual makes about \$16 per hour.

Mr. Johnson explained that in January of 95, the Administration tried to outline the program and explain it to Councilmember Beal and Councilmember Beal did not want to discuss it at length.

Chairperson Beal stated that she recalled that Mr. Johnson had presented handwritten notes to her and wanted her to "bless it." At this time Mr. Johnson was not asking for input at that time he was presenting this information to her advising her as to what the plans of the Administration were in regard to the Market. She invited Mr. Johnson to make a presentation to the Ways and Means committee.

Mr. Johnson in response to Councilmember Beal's statement indicated that this was not the intention of the Administration.

Chairperson Beal reported that Mr. Johnson submitted this information to her ten minutes prior to Council meeting.

Mr. Johnson responded that several attempts had been made to meet with Councilmember Beal to discuss the plan.

Chairperson Beal advised Mr. Johnson that the proper way to do things was to make the presentation before the Ways and Means Committee.

Ms. Estlund-Olson reported that Ms. Potter has done everything with the approval and permission of the Mayor through his overseeing the market. The money is allocated for promotion through the budget process. The Mayor gave Ms. Potter the authority to take actions to move the market forward.

Chairperson spoke to the issue of the expenditure of major monies.

Mr. Johnson addressed the signage issue and worked it through with Ms. Love of the Planning Department. In regard to entertainment, the actions taken are for the benefit of the public. He encouraged Councilmember Beal to visit the market and take a look at what is going on there.

Chairperson Beal expressed her opinion that she felt there were members of the community that could have been retained at less cost. The community was left out of this. It does not seem right that a few phone calls were made and then a person was hired, especially with tax dollars. She inquired as to whether notices were posted in the State Journal for entertainment services.

Mr. Johnson responded that notices were not posted in the State Journal and that the Purchasing Ordinance did not require that one be posted.

Mr. Rubley briefed the committee regarding the obtaining of quotes and the process utilized.

Discussion ensued regarding funding.

Councilmember Jones indicated that the previous Councils' did not care about the Market. The non profit corporation fought among themselves and their manager had no power to do anything unless he checked with eighteen people. Now is the opportunity to get the policies in place and that the community served, attract vendors into the market, and maximize the investment already made by the City.

Ms. Estlund Olson reported an immediate concern. Several of the vendors that are planning on moving in have contacted the Mayor inquiring as to whether the Council is planning on doing something that would make them not want to proceed with investing in the Market. The Mayor has assured them that they should expend the money to be a part of the market. The Administration is concerned about the ongoing negativity that is impacting on the market.

Mr. Teets spoke to the procedural issues. He explained that he was amazed that the Administration wanted to operate the market.

Mr. Koessel clarified the language in regard to procurements contained in the Purchasing ordinance. He stressed the following issues:

He as the Internal Auditor can not accept documents after the fact.

At the time these contracts were entered into there were insufficient funds to enter into any of these contracts, which violated the State Uniform Budgeting Act.

The eighth floor exists as an internal control on the activities of the City. The individuals on the eighth floor did not know what was going.

The ultimate level of internal control is the Internal Auditor.

The goals of the market manager can be accomplished without violating the SUBA or the City ordinances. Mr. Koessel recommended that these issues be worked out.

Chairperson Beal inquired as to what should be done with the inappropriate actions thus far.

Mr. Rubley reported that the department just became aware of this situation. Mr. Rubley explained that a determination can be made that from this point on we can move forward and the appropriate procedures be followed or the Committee can make a determination as to what previously happened. Mr. Rubley recommended that the committee continue to move forward and that the appropriate policies be adhered to in the future.

Mr. Teets expressed his dismay that the Mayor announced by a press conference that he was going to take over the operations of the market and that the eighth floor did not know about it.

Mr. Rubley explained that bills are process be employees of the eighth floor for entities that do not have to follow the purchasing ordinance. The Finance Department also serves as a processing service to pay bills and keep track of their accounts.

Mr. Koessel stated that the problem was the fact that documents were not submitted to the eighth floor.

NEXT MEETING DATE:

Ms. Potter to submit a detailed budget to the Committee. Next meeting 1:30 p.m., Monday, April 3.

The Transfer (Approximately \$46,000) is on for Council consideration Monday, April 3.

Ms. Potter reported that the painting is continuing by the artist.

Mr. Bosheff addressed the Committee. The projects should be prioritized given the amount of money that is available.

Mr. Johnson explained that the murals are viewed to be promotional.

Mr. Bosheff stated that he would not consider a mural to be a promotional vehicle for a market.

Promotional expenditures and plans were discussed.

Chairperson Beal asked if the painter had continued to do work since the Ad Hoc Committee was established.

Ms. Estlund-Olson answered that the Mayor's has directed the Market Manager to continue pursuing getting ready for the Super Saturdays Grand Opening. The painter is continuing working on this artist renderings in order to not get behind. It has not been fully determined that the contracts are illegal. The Mayor has indicated to them that the City will pay them for what they have done.

Mr. Koessel spoke to the violation of services being performed without funds being appropriated. He advised that he could provide the Administration with a formal report.

Chairperson Beal indicated that all actions need to stop. She expressed that it was disturbing to her that the Mayor has directed his staff to ignore the Council and go ahead with their plans.

Ms Estlund Olson reported that the Mayor did not say this but he directed the staff, to go ahead with those things that were in process necessary for this week, that obligations should be met.

Chairperson Beal commented that the Mayor could pay for these costs out of his budget.

Ms. Potter reported on the contents of the contract for Entertainer Mr. Foote. He is paid biweekly. There is a cap on what he can do. He submits his hours biweekly.

Chairperson Beal reported that the vendors in Flint have informed her that they do not want to come to Lansing because there is a dictator running the market. This is all very subjective. The Mayor informed her that if this does not work the City is selling the market. This information caused her a great deal of insecurity and she informed the vendors about his statements. She would like to be assured that we are going to protect the market.

Ms. Potter reported that Mr. Foote is one of the top children's performers in the Midwest. He is top notch and committed to promoting the market. The market as of May 1 is full. A third of the outside stalls are reserved for the middle of June.

1/2 of the Westside is full and that is all that will be occupied. The cap on payments to Mr. Foote is \$9,400 for eight months. Quotes were not obtained but he is cheap. The \$50.00 hour is cheap for his performance and that is her opinion. Ms. Potter will provide the Committee with a report as to what other performers charge, etc.

NEXT MEETING DATE:

Monday, April 3, 1995 at 1:30 p.m.

ADJOURN:

Approximately 2:24 p.m.

Prepared by Francesca E. Knot
Senior Legislative Assistant

Approved by the Committee

 4-19-95

ELLEN BEAL, Chairperson